

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 2
FOR THE REGULAR MEETING OF
MONDAY, JUNE 27, 2005 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

SPECIAL ORDERS OF BUSINESS

ITEM-S408: Mayor Dick Murphy’s Staff Day.

MAYOR MURPHY’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1381)

Recognizing Mayor Murphy’s wonderful staff for serving the City of San Diego with tireless dedication;

Proclaiming June 27, 2005, to be “Mayor Dick Murphy’s Staff Day” in the City of San Diego.

**ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:**

- * ITEM-S409: Wave House Belmont Park, LLC Consent to Additional Encumbrance of the Leasehold.

(See City Manager Report CMR-05-152. Mission Beach Community Area. District 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1359)

Authorizing the City Manager to approve the further encumbrance of the leasehold with Wave House Belmont Park, LLC, in an amount not to exceed \$1.4 million in addition to the previously approved \$9 million loan, on the terms as substantially set forth in the City Manager's Report No. 05-152 and the attachments to that Report.

Staff: Will Griffith – (619) 236-6145
Elisa A. Cusato – Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-S410: Cooperative Agreement with the State of California for the Construction of Phase I of Clairemont Mesa Boulevard/State Route 163 Improvement Project.

(Kearny Mesa Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1383)

Authorizing the City Manager to execute, for and on behalf of the City of San Diego, a Reimbursement Agreement with LNR Kearny Mesa, Inc. (LNR) (Agreement), in furtherance of LNR's obligations under the Development Agreement, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the City Manager to enter into the cooperative agreement with the State of California for construction Phase I of the Interchange, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement.

CITY MANAGER SUPPORTING INFORMATION:

On December 2, 1997, the City entered into a Development Agreement with General Dynamics, Inc. with an amendment to the Agreement approved on October 16, 2000, both on file in the City Clerk's Office. Subsequently, LNR, as the successor to General Dynamics, has assumed all the responsibility of the terms of the Development Agreement. Various provisions of the Development Agreement, obligates LNR to fund, design and/or construct all or a portion of various infrastructure improvements. One of the infrastructure improvements includes the Clairemont Mesa Boulevard/SR-163 Improvement project, which is to be constructed in two phases. Phase I consist of bridge widening and ramp realignment on the eastern side of the Interchange. Phase II consists of ramp realignment on the western side. In accordance with the development agreement, LNR's obligations are limited to Phase I only. On August 10, 2004, the City of San Diego entered into an agreement with LNR to facilitate the design and provide funding (Letter of Credit) for construction of Phase I improvements.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-S410: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

The State of California and the City of San Diego are authorized under the Streets and Highways Code Section 130 to enter into an agreement under which the State of California will advertise, award, and administer the construction contract. This action will execute the Cooperative Agreement, which outlines the City of San Diego and the State of California responsibilities for the construction of Phase I improvements.

FISCAL IMPACT:

The amount of \$5,240,700 of Federal RSTP grant funding is available for the construction of the project. The agreement would allow the State of California to obligate and expend the funds for purpose of construction. The remaining \$4,759,300 would be provided by LNR, per the agreement previously authorized by Resolution R-299586 on August 10, 2004 (Letter of Credit #3071584) and the Reimbursement Agreement. These funds are sufficient to cover the estimated costs of \$10,000,000 to enter into the Cooperative Agreement with the State of California.

Mendes/Boekamp/DZ

Staff: Dave Zoumaras – (619) 533-3138
Susan Y. Cola – Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-S411: Via Capri Emergency Storm Drain Repair.

(La Jolla Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1382)

Determining and declaring that pursuant to San Diego City Charter Section 94, that the damaged corrugated metal storm drain pipe (CMP) at 7806 Via Capri in La Jolla is an emergency and that its repair is in the public interest or a necessity;

Authorizing the City Manager to award a sole source contract to Orion Construction Corporation for the repair of the CMP at 7806 Via Capri, in an amount not to exceed \$190,000, contingent upon the City Auditor and Comptroller certifying that said funds are available;

Authorizing the City Manager to increase by \$120,000 the Fiscal Year 2005 Capital Improvements Program Budget in CIP-13-005.0, Emergency Drainage Projects, Via Capri Storm Drain Repair, Fund 30300, TransNet;

Authorizing the City Auditor and Comptroller to transfer \$40,704 from CIP-58-007.0, Other City Costs for Street Projects to CIP-13-005.0, Emergency Drainage Projects, Via Capri Storm Drain Repair, within Fund 30300, TransNet;

Authorizing the City Auditor and Comptroller to appropriate and expend \$120,000 from CIP-13-005.0, Emergency Drainage Projects, Via Capri Storm Drain Repair, Fund 30300, TransNet, for the purpose of emergency storm drain repair at Via Capri, contingent upon the City Auditor and Comptroller certifying that said funds are available;

Authorizing the City Manager to increase by \$350,000 the Fiscal Year 2006 Capital Improvements Program Budget in CIP-13-005.0, Emergency Drainage Projects, Via Capri Storm Drain Repair, Street Division Capital Improvement Fund 104402, contingent upon the adoption of the Fiscal Year 2006 Annual Capital Improvements Program Budget and Annual Appropriation Ordinance;

Authorizing the City Auditor and Comptroller to transfer \$350,000 from General Services, Streets Division, Department 940, Street Division Operating Fund 10440 to CIP-13-005.0, Emergency Drainage Projects, Via Capri Storm Drain Repair, Street Division Capital Improvement Fund 104402;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-S411: (Continued)

Authorizing the City Auditor and Comptroller to appropriate and expend \$350,000 from CIP-13-005.0, Emergency Drainage Projects, Via Capri Storm Drain Repair, Street Division Capital Improvement Fund 104402, for the purpose of storm drain repair at Via Capri, contingent upon the City Auditor and Comptroller certifying that said funds are available;

Authorizing the City Auditor and Comptroller, upon advice from the administering departments, to transfer excess funds to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

A 36" corrugated metal storm drain pipe (CMP) is located within a 10 feet wide drainage easement between the homes at 7806 and 7790 Via Capri in the La Jolla community of San Diego. The 36" storm drain is approximately 200 feet long and was constructed in 1969. The pipe varies in depth with respect to the adjacent ground elevation. It is 4 feet deep at the upstream end, has a grade of 5.7% for the first 100 feet, and continues an additional 100 feet at a much steeper grade of 53% towards the downstream end.

The 36" CMP storm drain failed in early March 2005, as a result of the heavy storms that the City experienced this year. The CMP that failed is a continuation of a 36" CMP that collects surface flow from the Soledad Preserve and surrounding streets up hill from the point of failure. That pipe travels in an easement down the steep slope on the north side of the Preserve, across Via Capri, and along the south side of 7806 Via Capri. The pipe then takes a 90° turn and proceeds approximately 200 feet as described above in a northerly direction along the property line where it connects to an existing storm drain manhole at the rear of the property. It was just above this point that the CMP failed.

The Engineering and Capital Projects Department initiated an emergency contract and hired Orion Construction Corporation. The contractor was able to immediately secure the site from any further damage by installing a temporary drainage pipe. The City's long term solution calls for the full removal of the failed CMP pipe and for its replacement with a Solid Wall High Density Polyethylene Pipe (HDPE). In addition, the site will be restored in kind, including backfilling and revegetation the washed out area. Examination of the CMP pipe upstream of the failed portion also showed that it was badly deteriorated all the way upstream to the Soledad Preserve. Therefore, future construction will also involve installing a liner to rehabilitate that pipe. Approximately 400 feet of 36" CMP will be lined. The Engineering and Capital Projects Department is requesting that Council approve the funding transfers and authorize the expenditures, which will be required to fund the award of an additional contract needed to complete the remaining work relating to the corrugated metal storm drainpipes.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-S411: (Continued)

FISCAL IMPACT:

Via Capri Storm Drain Repair was previously appropriated \$80,000. This action will increase the Emergency Drainage allocation by \$120,000, of which \$40,704 is from TransNet, Fund 30300, CIP-58-007.0, Other City Costs for Street Projects, and \$79,296 is from TransNet, Fund 30300. \$350,000 from Street Division's Capital Improvement Fund 104402 is contingent upon the adoption of the Fiscal Year 2006 Annual Budget. Total estimated project cost is \$550,000.

Mendes/Boekamp/DZ

Aud. Cert. 2501095.

Staff: Dave Zoumaras – (619) 533-3138
Jeremy A. Jung – Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-S412: Authorization of Funding for Kroll, Inc. for Services Related to Research of Pension Board Nominees.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-)

Authorizing the expenditure of \$108,825.45, for research of Pension Board nominees on behalf of the City of San Diego from March 1 through March 15, 2005, and directing the City Attorney to prepare the applicable resolution.

CITY MANAGER SUPPORTING INFORMATION:

In February of 2005, the City of San Diego ("City") entered into an agreement with Kroll, Inc. ("Kroll") to receive, review, and evaluate the findings of the investigations performed by Vinson & Elkins ("V&E") and the City Attorney, and to provide consulting assistance in assessing internal control deficiencies affecting matters discussed in the investigation reports.

In addition to this work, a special request was placed with Kroll to conduct research on Pension Board nominees on the City's behalf. The expenses incurred for this activity totaled \$108,825.45.

Ewell/Irvine

Aud. Cert. 25001117.

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-S413: Public Hearing: Various Underground Utility Districts with Mitigation Monitoring and Reporting Program.

(Various Community Plan Areas. Districts 2, 3, 6, 7, and 8.)

(Continued from the meetings of April 18, 2005, Item S403, May 24, 2005, Item 330, and June 21, 2005, Item 337; last continued at Councilmember Atkins' request, to address docketing issues.)

NOTE: Hearing open. Testimony taken on 6/21/2005.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-1040)

A Resolution establishing Underground Utility Districts financed through the San Diego Gas & Electric Undergrounding Surcharge Fund.

Subitem-B: (R-2005-1041 Cor. Copy)

A Resolution certifying that Mitigated Negative Declaration Project No. 63220, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the following underground utility districts:

- District 2 Block 2-J, as described in Exhibit A, to this resolution and more particularly shown on Drawing No. 33492-1-D, and;
- District 3 Block 3-EE, as described in Exhibit B, to this resolution and more particularly shown on Drawing No. 33493-1-D and;
- District 7 Block 7-CC, as described in Exhibit C, to this resolution and more particularly shown on Drawing No. 33496-1-D, and;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-S413: (Continued)

Subitem-B: (Continued)

- District 8 Block 8-G, as described in Exhibit D, to this resolution and more particularly shown on Drawing 33497-1-D and;
- Hotel Circle North from Circle South to Hotel Circle Place, as described in Exhibit E, to this resolution and more particularly shown on Drawing No. 33555-1-D.

That pursuant to California Public Resource Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment.

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding this project.

CITY MANAGER SUPPORTING INFORMATION:

The proposed districts are identified in CIP-37-028.0, “Annual Allocation – Underground of City Utilities,” and will underground the overhead utility facilities within the designated districts.

The formation of these districts will require the removal and/or underground conversion of certain overhead power and communications wires with poles within the established boundary. The expense of the underground installation and removal of overhead electric facilities within the right-of-way will be financed through City of San Diego Undergrounding Surcharge Fund 30100, contingent upon receipt of funds from San Diego Gas & Electric. The expense of the underground installation and removal of overhead facilities within the right-of-way for all other utilities will be the responsibility of the utility companies in accordance with California Public Utilities Commission Rules.

It is the responsibility of the individual property owner(s), for the trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service. However, San Diego Gas & Electric will offer to property owner(s), within the Underground Utility District, to perform all the work necessary to convert private property, including necessary conduits for telephone and cable facilities, at no cost to the property owner(s).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-S413: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

In order to take advantage of San Diego Gas & Electric's offer to perform this work, property owners are required to sign a Permit to Enter Form (PTE). The City will also provide and plant a new tree for any property owner(s) who are willing to take responsibility for the watering and caring of the tree until it becomes established.

FISCAL IMPACT:

The construction cost and other indirect costs such as administration, archaeological monitoring, street light replacement, street improvement, minor City forces, and other related work, is estimated at \$16,181,792. Funds will be available in Fund 30100, Undergrounding Surcharge Fund, contingent upon receipt of funds from San Diego Gas & Electric.

Mendes/Boekamp/AO

Staff: Nathan Bruner – (619) 533-3777.